

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BRENDAN DASSEY,

Petitioner,

v.

Case No. 14-CV-1310

BRIAN FOSTER, Warden,
Green Bay Correctional Institution,

Respondent.

MOTION FOR EXTENSION OF TIME TO FILE ANSWER AND TO FILE BRIEF

Brian Foster, Warden, Green Bay Correctional Institution, moves this Court for an extension of time in which to file a response to Petitioner Brendan Dassey's petition for writ of habeas corpus and to file a brief on the merits. Foster requests a due date for the response of February 11, 2015. Foster requests an additional thirty days, until March 13, 2015, in which to file a brief in support. The reasons for this motion follow.

1. Foster is currently represented in the above matter by Assistant Attorney General Warren D. Weinstein. The Court has issued a Rule 4 Order, Rules Governing Section 2254 Cases in the United States District Court, requiring Foster to respond on January 12, 2015, sixty days from the date of

the Rule 4 Order. Dkt. 6:2. The order additionally required Foster to submit any brief in opposition to the petition with the response. Dkt. 6:2.

2. On December 22, 2014, AAG Weinstein was diagnosed with coronary artery disease requiring surgery. As a result, AAG Weinstein will begin an extended medical leave on January 9, 2015. AAG Weinstein currently expects to return from medical leave in early April.

3. The Department of Justice transferred the case to Assistant Attorney General Jacob Wittwer on January 5, 2015. AAG Wittwer will be filing a notice of appearance with this motion. AAG Wittwer has an oral argument in the Wisconsin Supreme Court in *State v. Joel M. Hurley*, Case No. 2013AP0558-CR on January 8, 2015.

4. In addition, Dassey's petition attacks the state court judgment of conviction consisting of a nine-day trial totaling over 1,600 pages of transcripts and a five-day post-conviction motion hearing totaling over 1,300 pages of transcripts. The amount of time to electronically scan these large transcripts plus the lengthy briefs in the state court place a substantial burden on the department's secretarial staff which just lost two of its total eight personnel to retirement.

5. Dassey raises two issues. First he argues his pre-trial attorney had a conflict of interest because he did not act in defendant's best interest and

thus provided ineffective assistance of counsel. Second, he argues his confession is not voluntary because of his suggestibility to police questioning. Because AAG Weinstein read the state court record and briefed the case in the Wisconsin Court of Appeals, AAG Wittwer will have to familiarize himself with the state court record, the cases Dassey relies upon, and the cases the State cited in the state court, as well as review the three hour video recording of Dassey's confession. AAG Wittwer also has response briefs due in five cases in the Wisconsin Court of Appeals during the month of January, and answers to two habeas petitions due in the Eastern District court in *Daniel Jackson v. Brian Foster*, No. 14-C-1254, on January 21, 2015 (on first extension), and *Antonio Jackson v. Gary Boughton*, 14-C-1359, on February 2, 2015 (on second extension). For these reasons, it is not feasible for AAG Wittwer to submit a merits brief with Foster's response.

THEREFORE, for the above reasons, Foster respectfully requests the Court grant an extension to February 11, 2015, for Foster to file his response and an extension to March 13, 2015, in which to file a brief in support.

Dated at Madison, Wisconsin, this 7th day of January, 2015.

Respectfully submitted,

BRAD D. SCHIMEL
Attorney General

s/ Warren W. Weinstein

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s/ Jacob J. Wittwer

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